

CHARITIES AND TRUSTEE INVESTMENT (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 1: Charities

Chapter 2 – Scottish Charity Register

The charity test

15. **Section 7** sets out the charity test that must be satisfied by every body on the register. The test consists of two parts: the purposes of the body must be exclusively charitable and it must provide public benefit, either in Scotland or elsewhere. Unlike in the previous charity definition, none of the charitable purposes are assumed to provide public benefit. In addition, the body must not be able to distribute or apply any of its property for a non-charitable purpose, must be free from the control of Scottish Ministers or Ministers of the Crown, and must be non-political. However **subsection 5** allows the Scottish Ministers to disapply, by affirmative order, either or both of the first two of these criteria.
16. The charitable purposes listed in **section 7(2)** are:
 - a) prevention or relief of poverty;
 - b) advancement of education;
 - c) advancement of religion;
 - d) advancement of health;
 - e) the saving of lives;
 - f) advancement of citizenship or community development;
 - g) advancement of the arts, heritage, culture or science;
 - h) advancement of public participation in sport;
 - i) the provision of recreational facilities or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities are primarily intended (this purpose is intended to preserve the charitable purpose covered by the Recreational Charities Act 1958);
 - j) advancement of human rights, conflict resolution or reconciliation;
 - k) the promotion of religious or racial harmony;
 - l) the promotion of equality and diversity;
 - m) advancement of environmental protection or improvement;

These notes relate to the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) which received Royal Assent on 14 July 2005

- n) the relief of those in need by reason of age, ill-health disability, financial hardship or other disadvantage;
- o) advancement of animal welfare; or
- p) any other purpose that may reasonably be regarded as analogous to any of the preceding purposes.

Further detail is provided by **subsection 3** which clarifies that:

- the advancement of health (d) includes the prevention or relief of sickness, disease or human suffering;
- the advancement of citizenship and community development (f) includes rural or urban regeneration, and the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of charities;
- in (h), sport means sport which involves physical skill and exertion;
- the provision of recreational facilities or activities (i) applies only in relation to those which are primarily intended for persons who have need of them by reason of their age, ill-health, disability, financial hardship or other disadvantage or are available to members of the public at large or to male or female members of the public at large (again, this seeks to preserve the terms of the Recreational Charities Act 1958);
- the relief of those in need in (n) includes the relief given by the provision of accommodation or care; and
- the advancement of any philosophical belief (whether or not involving belief in a god) is analogous to the purpose for the advancement of religion in (c).